IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

FRIDAY, THE 8TH DECEMBER 2006 / 17TH AGRAHAYANA 1928

WP(C).No. 31565 of 2006(G)

PETITIONER:

SIBY JOSEPH, AGED 45 YERAS,
S/O.JOSEPH, MANAGING PARTNER, ST.GEORGE TRADING COMPANY, POTTUKULAM, KAKKAMTHODU, CHANGANASSERY-TALUK, KOTTAYAM DISTRICT.

BY ADV. SRI.M.V.BOSE
SRI.VINOD MADHAVAN
SMT.NISHA BOSE

RESPONDENTS:

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1. THE DISTRICT COLLECTOR,
KOTTAYAM.

2. THE DISTRICT SUPPLY OFFICER,
KOTTAYAM.

3. THE TALUK SUPPLY OFFICER,
CHANGANASSERY.

4. THE TALUK SUPPLY OFFICER,
KANJIRAPPALLY.

BY GOVERNMENT PLEADER SMT.N.SUDHA DEVI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE COPY OF CERTIFICATE OF REGISTRATION DT.5.10.1993 ISSUED UNDER THE K.G.S.T.RULES.

P2: .DO. ISSUED UNDER C.S.T. RULES, 1957.

P3: TRUE COPY OF CHALAN ISSUED FOR REMITTANCE OF PAYMENT FOR RENEWAL OF VAT REGISTRATION.

P4: TRUE COPY OF INVOICE BEARING NO.927 DT.24.11.2006 ISSUED BY BROTHERS TRADERS, CHANGANASSERY.

P4(a): .DO. NO.928 .DO.

P4(b): .DO. NO.929 .DO.

P5: TRUE COPY OF THE RELEVANT PAGE OF STOCK REGISTER.

P6: TRUE COPY OF DUPLICATE OF INVOICE NO.284.

P6(a): .DO. NO.285.

P6(b): .DO. NO.286.

P6(c): .DO. NO.287.

P6(d): .DO. NO.288.

P7: TRUE COPY OF REPRESENTATION PREFERRED BEFORE R1 BY THE PETITIONER.

P8: TRUE COPY OF ORDER DT.15.2.2002 ISSUED BY THE MINISTRY OF CONSUMER AFFAIRS, FOOD & PUBLIC DISTRIBUTION.

P9: TRUE COPY OF ORDER DT.17.12.96 IN C.M.P. 35030/96 IN O.P. NO.19443/96.

P10: TRUE COPY OF THE PROCEEDINGS OF THE DISTRICT COLLECTOR, KOTTAYAM DT.2.4.98.

TRUE COPY

P.S. TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C) No.31565 of 2006

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Dated this the 8th day of December, 2006.

JUDGMENT

The petitioner is challenging seizure of rice in his godown by the second respondent. Government Pleader submitted that articles seized are ration articles which is evident from the packing itself and therefore, it is liable for confiscation under the Essential Commodities Act. Since rice is a perishable commodity, it has to be disposed of without any delay. In the circumstances and since the enquiry is over, W.P. is disposed of with direction to the first respondent to complete adjudication and issue final orders within ten days from the date of production of copy of this judgment by the petitioner. If petitioner raises factual controversy on the identity of the goods or the labeling on the packets, it will be open to the Collector to personally verify and satisfy himself about the factual issues before completing adjudication in the presence of the petitioner. The petitioner will be given hearing before final orders are issued. I make it clear that no authority should, in appeal or revision, order retention of rice for long period and allow it to be perished. In other words, if any proceeding is pending after identification of the product and after verification of the packing and other details required for the case, the rice should be sold.

C.N.RAMACHANDRAN NAIR
Judge

pms